

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JAMES BROWN,

Plaintiff,

vs.

**DANA RENEE DARNOLD and
KIMBERLEY J. CLEVY,**

Defendants.

CIVIL NO. 09-240-GPM

MEMORANDUM AND ORDER

MURPHY, District Judge:

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Donald G. Wilkerson (Doc. 41), recommending that the motion for summary judgment for failure to exhaust administrative remedies filed by Defendants Darnold and Clevy (Doc. 17) be denied. The Report and Recommendation was entered on August 17, 2010. No timely objections have been filed.

In accordance with the dictates of *Pavey v. Conley*, 544 F.3d 739 (7th Cir. 2008), Magistrate Judge Wilkerson held a hearing on Defendants' motion challenging whether Plaintiff exhausted his administrative remedies (*see* Doc. 31). Following the *Pavey* hearing, Magistrate Judge Wilkerson issued the Report and Recommendation currently before this Court.

Where timely objections are filed, this Court must undertake a *de novo* review of the Report and Recommendation. 28 U.S.C. § 636(b)(1)(B), (C); FED. R. CIV. P. 72(b); SDIL-LR 73.1(b); *Harper v. City of Chicago Heights*, 824 F. Supp. 786, 788 (N.D. Ill. 1993); *see also Govas v.*

Chalmers, 965 F.2d 298, 301 (7th Cir. 1992). The Court “may accept, reject or modify the magistrate judge’s recommended decision.” *Harper*, 824 F. Supp. at 788. In making this determination, the Court must look at all of the evidence contained in the record and “give ‘fresh consideration to those issues to which specific objections have been made.’” *Id.*, quoting 12 Charles Alan Wright et al., *Federal Practice and Procedure* § 3076.8, at p. 55 (1st ed. 1973) (1992 Pocket Part).

However, where neither timely nor specific objections to the Report and Recommendation are made, pursuant to 28 U.S.C. § 636(b), this Court need not conduct a *de novo* review of the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985). Accordingly, the Court **ADOPTS** Magistrate Judge Wilkerson’s Report and Recommendation (Doc. 41),¹ and Defendants’ motion for summary judgment based on exhaustion of administrative remedies (Doc. 17) is **DENIED**.

Several additional motions are pending and are ready for ruling. First, Plaintiff moves to correct the spelling of Defendant Dana Darnold’s name; this motion (Doc. 42) is **GRANTED**. The Clerk of Court is **DIRECTED** to modify the Court’s docket to reflect Defendants’ names as set forth in Plaintiff’s supplement to the complaint filed on July 20, 2010 (Doc. 40): Dana Renee Darnold and Kimberley J. Clevey. Defendants filed a motion to reset the discovery and dispositive motion deadlines 60 days after the Court disposes of the motion for summary judgment; this motion (Doc. 38) is **GRANTED**. The discovery deadline is **extended** to November 15, 2010, and the dispositive motion deadline is **extended** to December 15, 2010. Finally, Plaintiff filed a pro se motion seeking disclosure of certain discovery materials (Doc. 36). Plaintiff recently was appointed counsel in this

¹While a *de novo* review is not required, the Court fully agrees with the findings, analysis, and conclusions of Magistrate Judge Wilkerson.

case (*see* Doc. 43), and the discovery deadline now has been extended. Accordingly, the motion (Doc. 36) is **DENIED as moot**. Plaintiff is instructed that all further filings shall be filed by appointed counsel.

IT IS SO ORDERED.

DATED: 09/08/10

s/ *G. Patrick Murphy*
G. PATRICK MURPHY
United States District Judge